

Notice of Allowability**Application No.**

10/522,955

Applicant(s)

ANGELL ET AL.

Examiner

YONG CHU

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03/18/2009.
2. ☒ The allowed claim(s) is/are 1-7, 10-12, 15, 17, 20-22, and 24 (renumbered as 1-16).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 06/03/2009.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/18/2009 has been entered. Upon entering the submission, claims 1-7, 10-12, 15, 17, 20-22, and 24 pending.

Response to RCE Submission

Claim rejection under 35 U.S.C. § 103a

Applicants' amendment by cancelling the compounds of formula (I) according to claim 1 or 11, wherein the benzene-fused **ring A** as 1,2-indazole has obviated the rejection.

Claim rejection under 35 U.S.C. § 112, 1st paragraph, enablement

Applicants have cancelled the rejected claims 8 and 9. The rejection is moot.

Obviousness-type double patenting rejection

All the pending claims are allowable, and the instant application has earlier filing date than the filing date of the previously cited co-pending application 10/587,790 has. Therefore, the ODP rejection is hereby withdrawn.

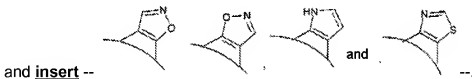
Applicants have amended the claims, and there is no pending rejection. Search and examination are expanded to all pending claims, previously withdrawn as non-elected subject matter.

Examiner's amendment

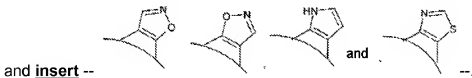
An examiner's amendment to the record with the authorization by Applicants' representative Ms. Dara Dinner dated 06/03/2009 appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

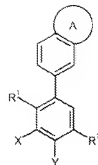
In claim 1, lines 4-5, page 1, **delete** "an isoxazolyl ring, a pyrrolyl or a thiazolyl ring" after "A is a fused 5-membered heteroaryl ring selected from",



In claim 11, lines 4-5, page 1, **delete** "an isoxazolyl ring, a pyrrolyl or a thiazolyl ring" after "A is a fused 5-membered heteroaryl ring selected from",



Reasons for Allowance



The present invention is drawn to a compound of the formula (I) according to claim 1 or 11, a pharmaceutical preparation comprising a compound thereof, and a process for preparing a compound thereof, wherein the moiety of



" of said compounds is interpreted as



and



according to the disclosure at pages 4-5 of the instant

specification, and discussion during the telephonic interview between the Examiner and Applicants' representative Dara Dinner dated 06/03/2009.

The instantly claimed invention is clear of prior art, and the specification support the claims.

Conclusions

Claims 1-7, 10-12, 15, 17, 20-22, and 24 are allowed.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Chu, Ph.D, whose telephone number is 571-272-5759. The examiner can normally be reached on 7:00 am - 3:30 pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Status Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Yong Chu/
Patent Examiner
Art Unit 1626